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Resolve, To Ensure Proper Levels of Care for the Elderly and the Disabled

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain disabled persons are living in inappropriate institutional settings, often at significant emotional costs to them and their families and at significant financial cost to the State; and

Whereas, the Legislature believes that suitable alternative living arrangements are available or can be made reasonably available within existing resources; and

Whereas, the Legislature believes that other individuals who could be maintained in their current living arrangements if appropriate supports and education were provided are unnecessarily transferred to more restrictive settings; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Assessment process. Resolved: That, within available resources, the Department of Health and Human Services shall establish an ongoing process to assess the medically necessary physical, cognitive and behavioral needs of adult MaineCare members living in out-of-state facilities or living in state nursing or hospital facilities, including psychiatric hospitals and units, who could benefit from a less restrictive level of care but who have been unable to locate appropriate services because they have complex medical needs such as ventilator care or complex behavioral health needs; and be it further

Sec. 2 Planning for services. Resolved: That the Department of Health and Human Services shall plan for appropriate and medically necessary physical, cognitive and behavioral services within available resources, including residential and supportive services, so that individuals who are inappropriately placed, if they choose, may live in the least restrictive setting that meets their medical, physical, cognitive and behavioral needs. This planning must include a process for individualized planning that includes the hospital patient or nursing home resident, a guardian or other representative, representatives of the hospital or nursing facility, the assigned case manager and an appropriate representative of the Department of Health and Human Services; and be it further

Sec. 3 Positive behavioral support training. Resolved: That the Department of Health and Human Services shall work with interested parties to determine specific additions to the curriculum for positive behavioral support training for all long-term care settings as developed by the department and the Joint Advisory Committee on Select Services for Older Persons and to determine how this training can be delivered within available resources; and be it further

Sec. 4 Discussions among stakeholders. Resolved: That the Department of Health and Human Services shall facilitate discussions among the stakeholders with the following goals:

1. Creating useable procedures for transferring individuals between hospitals and nonhospital settings;
2. Developing an improved process for mutual clinical assistance and support when necessary; and
3. Reviewing and modifying, if necessary, the rules regarding the written notices provided to residents to ensure that they are adequately informed about the reasons for transfer, discharge or denial of admission or readmission; and be it further

Sec. 5 Process. Resolved: That the Department of Health and Human Services shall establish or collaborate with an appropriate working group that includes advocates and providers to ensure that the activities in sections 1 to 4 take place in a timely manner. The Department of Health and Human Services shall share with the working group data and information that is not personally identifiable collected through the planning process. The Department of Health and Human Services shall complete the assessment and planning process for individuals who currently meet the criteria in section 1 no later than October 1, 2007; and be it further

Sec. 6 Report. Resolved: That, by November 1, 2007, the Department of Health and Human Services shall report to the Joint Standing Committee on Health and Human Services on the progress made to implement this resolve. This report must recount the activities to date and identify any needs to be addressed. The joint standing committee is authorized to submit legislation that it determines necessary to further the intent of this resolve to the Second Regular Session of the 123rd Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.